

IBLA 84-177

Decided October 1, 1984

Appeal from decision of the Wyoming State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease applications W-86838 and W-87024.

Affirmed as modified and remanded.

1. Oil and Gas Leases: Applications: Drawings -- Oil and Gas Leases: Applications: Filing

A simultaneous oil and gas lease application was not properly completed in accordance with 43 CFR 3112.2-1(g) (1982) where more than one circle per column was darkened in the space provided for indicating an applicant's identification number. Such an error renders the application unacceptable, and the applicant is entitled to a return of his filing fees, minus a \$75 processing fee.

APPEARANCES: Warren Robert Haas, pro se; Luther F. Coyle, adverse party, 1/ pro se.

OPINION BY ADMINISTRATIVE JUDGE FRAZIER

Warren Robert Haas has appealed from the November 7, 1983, decision of the Wyoming State Office, Bureau of Land Management (BLM), which stated that appellant's application contained the following defect:

Part "B" of your application, copy enclosed, shows your identification number bubbled (darkened circle) as 155 20 9946. Part "A" of your application indicates that your identification number is actually 155 20 9846. Although you have the correct number written in the boxes provided, the computer reads only the darkened circle numbers. [Emphasis in original.]

We note, however, that appellant did fully darken the circle No. 8 in the third column from the right. However, appellant also partially marked the circle No. 9 in the same column.

1/ Luther F. Coyle was the second-drawn applicant for lease W-86838.

[1] A simultaneous oil and gas lease application is not properly completed in accordance with 43 CFR 3112.2-1(g) (1982), 2/ where more than one circle per column is darkened in the space provided for indicating an applicant's identification number. See James R. Taylor, 80 IBLA 157 (1984); see also Tillman V. Jackson, 80 IBLA 225 (1984); see generally Shaw Resources, Inc., 79 IBLA 153, 91 I.D. 122 (1984). The necessity for proper completion of Part B is based on the automated nature of the current simultaneous oil and gas leasing system. Because Part A identifies the applicant and is matched to Part B only by the identification number given on both forms, efficient processing of Part B by the computer and, indeed, the eventual issuance of a lease, requires an applicant to enter the numbers in Part B in such a manner as to enable the computer to match Part B with Part A. 3/

Appellant notes that he had received a letter from BLM notifying him of the defect in his application. Appellant notes that the letter stated: "Errors in the mandatory field data requirements can be corrected by the applicant only. Please follow these recommendations for correction." Appellant submitted a corrected Part B and, therefore, believes his application should be accepted and the rejection reversed. Appellant has misconstrued the intent of the letter. The purpose of the letter was to advise him to "Ensure on all future applications that your Part B reflects the same data as that on Part A." (Emphasis added.) Nothing in the letter suggests that appellant would be permitted to submit a corrected Part B and have his priority for the parcels selected in the July drawing reinstated. See generally Ballard E. Spencer Trust, Inc. v. Morton, 544 F.2d 1067 (10th Cir. 1976).

Appellant suggests that when the automated simultaneous filing system started, "many mistakes were made yet allowed by BLM to go through." Some of appellant's confusion arises from the fact that BLM might return defective applications without processing or process such applications and later reject them. In no circumstance, however, would it have been proper for BLM to issue a lease to an applicant whose application bore improperly completed circles for the applicant's identification number. See generally Shaw Resources, Inc., supra.

2/ In particular, 43 CFR 3112.2-1(g) (1982) provided that the "properly completed and signed lease application shall be filed in the proper office of the Bureau of Land Management." Current regulations specifically require an applicant to "use the same number for all filings." 43 CFR 3112.2-1(e) (48 FR 33678 (July 22, 1983)).

3/ Part A, unlike Part B, provides the applicant's name and address in machine-readable form and is coordinated with all subsequently filed Part B forms. Part B, on the other hand, identifies those parcels in a particular simultaneous lease drawing which the applicant desires to lease. The identification number, which is the only machine-readable number common to both forms, coordinates the two forms. This number may be a person's social security number, as in the present case, a business entity's employer identification number, or a number assigned by BLM. The instructions on Part B notify applicants to print "the number used by the applicant on Part A and [to] mark the corresponding circles."

Lastly, appellant contends that if his application was not acceptable because of the improperly completed identification number, he should receive a refund of all of his filing fees, minus a \$75 processing fee. Appellant is correct in making this contention, and the State Office is instructed to refund appellant's filing fees, minus the \$75 processing fee. See Shaw Resources, Inc., supra.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed as modified and the case is remanded to BLM for further action consistent with this opinion.

Gail M. Frazier
Administrative Judge

We concur:

Wm. Philip Horton
Chief Administrative Judge

Edward W. Stuebing
Administrative Judge